

(iii) If price is not the determining factor, use the following procedures:

(A) If there are domestic offers, apply the 50 percent Buy American Act or Balance of Payments Program evaluation factor to all foreign offers unless an exemption applies.

(B) Evaluate in accordance with the criteria of the solicitation.

(C) If these procedures will not result in award on a domestic offer, reevaluate offers without the 50 percent factor. If this will result in award on an offer to which the Buy American Act or Balance of Payments Program applies, but evaluation in accordance with paragraph (c)(ii) of this section would result in award on a domestic offer, proceed with award only after execution of a determination in accordance with 225.103(a)(ii)(B), that domestic preference would be inconsistent with the public interest.

[68 FR 15620, Mar. 31, 2003, as amended at 69 FR 1928, Jan. 13, 2004; 69 FR 74992, Dec. 15, 2004; 70 FR 2363, Jan. 13, 2005]

#### **225.503 Group offers.**

Evaluate group offers in accordance with FAR 25.503, but apply the evaluation procedures of 225.502.

#### **225.504 Evaluation examples.**

For examples that illustrate the evaluation procedures in 225.502(c)(ii), see PGI 225.504.

[70 FR 73154, Dec. 9, 2005]

### **Subpart 225.7—Prohibited Sources**

#### **225.701 Restrictions.**

See 209.104-1(g) for restrictions on contracting with firms owned or controlled by foreign governments.

[70 FR 73154, Dec. 9, 2005]

#### **225.701-70 Exception.**

DoD personnel are authorized to make emergency acquisitions in direct support of U.S. or allied forces deployed in military contingency, humanitarian, or peacekeeping operations in a country or region subject to economic sanctions administered by the Department of the Treasury, Office of Foreign Assets Control.

[68 FR 7441, Feb. 14, 2003]

#### **225.770 Prohibition on acquisition of United States Munitions List items from Communist Chinese military companies.**

This section implements Section 1211 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109-163). See PGI 225.770 for additional information relating to this statute, the terms used in this section, and the United States Munitions List.

[71 FR 53046, Sept. 8, 2006]

#### **225.770-1 Definitions.**

As used in this section—

(a) *Communist Chinese military company* and *United States Munitions List* are defined in the clause at 252.225-7007, Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies.

(b) *Component* means an item that is useful only when used in conjunction with an end item (22 CFR 121.8).

(c) *Part* means any single unassembled element of a major or minor component, accessory, or attachment, that is not normally subject to disassembly without the destruction or impairment of design use (22 CFR 121.8).

[71 FR 53046, Sept. 8, 2006]

#### **225.770-2 Prohibition.**

Do not acquire supplies or services covered by the United States Munitions List (USML) (22 CFR part 121), through a contract or subcontract at any tier, from any Communist Chinese military company. This prohibition does not apply to components and parts of covered items unless the components and parts are themselves covered by the USML.

[71 FR 53046, Sept. 8, 2006]

#### **225.770-3 Exceptions.**

The prohibition in 225.770-2 does not apply to supplies or services acquired—

(a) In connection with a visit to the People's Republic of China by a vessel or an aircraft of the U.S. armed forces;

(b) For testing purposes; or

(c) For the purpose of gathering intelligence.

[71 FR 53046, Sept. 8, 2006]